

# EXHIBIT 12

FILED

FEB 27 2004  
CLERK'S OFFICE  
U.S. DISTRICT COURT  
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

NORMA GARCIA, as Guardian  
of Jorge Lizandro  
Garcia, an incompetent  
person,

Plaintiff,

v.

CASE NO. 8:99-CV-1611-T-17TGW

KELLY-SPRINGFIELD  
TIRE COMPANY, a foreign  
corporation, and THE GOODYEAR  
TIRE & RUBBER COMPANY,  
a foreign corporation,

Defendants.

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ORDER

This cause is before the Court on:

Dkt. 443 Motion in Limine to Exclude All Reference  
To Other Models of Tires Manufactured by  
Kelly-Springfield Tire Company, Goodyear  
Tire & Rubber Company, or Other Tire  
Manufacturers

Dkt. S-37 Response

Defendants move for an order precluding Plaintiffs, their attorneys and all witnesses from referring to, commenting on, or otherwise attempting to introduce at trial, any and all evidence pertaining to the testimony of other models and sizes of tires manufactured by Goodyear or other tire manufacturers. Defendant argues that such evidence will create jury confusion, and create the risk that a juror will find fault with Defendants because of allegations regarding other tire designs by other parties. Defendants also contend that evidence and testimony regarding other tire designs will lengthen the trial and waste time.

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Defendants argues that the focus of this trial is a Power King LT 235/85 R 16 steel belted radial tire with DOT serial number PJ0RAPLV224, and the specifications of this tire provides the proper scope of evidence in support of Plaintiff's claims. Defendant argues that evidence of claims, lawsuits and investigations of other produces will produce hopeless jury confusion. Defendant further argues that evidence of other tire models is not admissible unless the design and manufacture of those models is the same as, or substantially similar to, the model at issue.

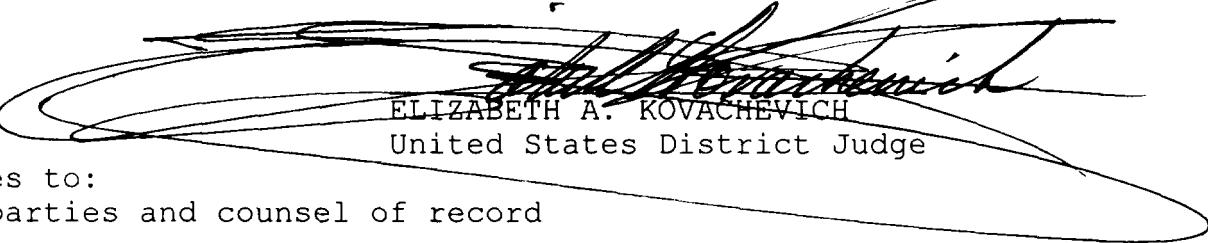
Plaintiff responds that the subject tire is identical to, or at least substantially similar to other radial light truck tires manufactured under other brand names, based on expert testimony. Defendant Goodyear investigated the tread throw problem with Load Range E tires, and included tires that were identical or substantially similar to that tire, which failed in the same manner and exhibited the same failure mechanism as the tire in this case.

After consideration, the Court concludes that evidence of other tires is admissible if the design and manufacture of those models is substantially similar to the model at issue. Accordingly, it is

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**ORDERED** that the Motion in Limine (Dkt. 443) is **denied**.

**DONE and ORDERED** in Chambers, in Tampa, Florida on this  
27<sup>th</sup> day of February, 2004.

  
ELIZABETH A. KOVACHEVICH  
United States District Judge

Copies to:  
All parties and counsel of record

F I L E     C O P Y

Date Printed: 03/01/2004

Notice sent to:

- A. Broaddus Livingston, Esq.  
Carlton Fields, P.A.  
P.O. Box 3239  
Tampa, FL 33601-3239  
  
8:99-cv-01611 bls
- Michael McAllister, Esq.  
McAllister & Abromovitz  
340 E. Palm Lane Suite A-144  
Phoenix, AZ 85004  
  
8:99-cv-01611 bls
- John C. Seipp Jr., Esq.  
Seipp, Flick & Kissane, P.A.  
Two Alhambra Plaza, Suite 800  
Miami, FL 33134-5214  
  
8:99-cv-01611 bls
- Joseph W. Bonie, Esq.  
Law Office of Joseph W. Bonie  
537 Black Lion Dr. N.E.  
St. Petersburg, FL 33716  
  
8:99-cv-01611 bls
- Timothy M. Cerio, Esq.  
GrayRobinson, P.A.  
201 N. Franklin St., Suite 2200  
P.O. Box 3324  
Tampa, FL 33601-3324  
  
8:99-cv-01611 bls
- Michael J. Meksraitis, Esq.  
Michael J. Meksraitis, Chartered  
4202 W. El Prado Blvd.  
Tampa, FL 33629  
  
8:99-cv-01611 bls
- Joseph J. Reiter, Esq.  
Lytal, Reiter, Clark, Fountain & Williams, LLP  
515 N. Flagler Dr., Suite 1000  
P.O. Box 4056  
West Palm Beach, FL 33402-4056  
  
8:99-cv-01611 bls

— Lance C. Ivey, Esq.  
Lytal, Reiter, Clark, Fountain & Williams, LLP  
515 N. Flagler Dr., Suite 1000  
P.O. Box 4056  
West Palm Beach, FL 33402-4056

8:99-cv-01611 bls

— Hampton Keen, Esq.  
Lytal, Reiter, Clark, Fountain & Williams, LLP  
515 N. Flagler Dr., Suite 1000  
P.O. Box 4056  
West Palm Beach, FL 33402-4056

8:99-cv-01611 bls

— Donald R. Fountain Jr., Esq.  
Lytal, Reiter, Clark, Fountain & Williams, LLP  
515 N. Flagler Dr., Suite 1000  
P.O. Box 4056  
West Palm Beach, FL 33402-4056

8:99-cv-01611 bls